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IN THE

Supreme Court of the United States

OCTOBER TERM, A. D. 1950.

No. 355

CORBIN D. HUGHES, ADMINISTRATOR OF THE ESTATE OF HAROLD G. HUGHES,

Plaintiff and Appellant,

vs.

GLENN C. FETTER AND FARMERS MUTUAL AUTOMOBILE INSURANCE COMPANY, A WISCONSIN CORPORATION,

Defendants and Appellees.

APPEAL FROM THE SUPREME COURT OF THE STATE OF WISCONSIN.

MOTION OF WILLIAM C. WINES THAT BRIEF IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI IN FIRST NATIONAL BANK OF CHICAGO, AS EXECUTOR OF THE ESTATE OF JOHN LOUIS NELSON, DECEASED VS. UNITED AIR LINES, INC., A CORPORATION, STAND AND BE CONSIDERED AS BRIEF OF AMICUS CURIAE HEREIN.

WILLIAM C. WINES,
900, 160 North La Salle Street,
Chicago, Illinois,
Attorney.

ROBERT J. BURDETT,
Of Counsel.

CHAMPLIN-SHEALY COMPANY, CHICAGO [redacted] 365

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Now comes William C. Wines, of Chicago, Illinois, a member of the bar of this Court, due notice having been given all parties in interest, and moves this Honorable Court that the Brief in support of the Petition for Writ of Certiorari in *First National Bank of Chicago, Executor of the Estate of John Louis Nelson, Deceased* v. *United Air*

Lines, Inc., a Corporation, stand and be considered as the Brief of *Amicus Curiae* herein, and in support of said motion presents Suggestions appended hereto showing why said Motion should be allowed.

WILLIAM C. WINES,
900—160 North La Salle Street,
Chicago, Illinois,
Attorney.

SUGGESTIONS IN SUPPORT OF FOREGOING MOTION.

Nature of Applicant's Interest.

There is filed before this Court a Petition for Writ of Certiorari to the Court of Appeals for the Seventh Circuit, in *First National Bank of Chicago, Executor of the Estate of John Louis Nelson, Deceased* v. *United Air Lines, Inc., a Corporation.* Applicant is attorney for the First National Bank of Chicago, as Executor of the Estate of John Louis Nelson, Deceased, Petitioner therein.

Presented in that case is the same question presented here, namely:

> IS A PROVISION IN A LOCAL WRONGFUL DEATH STATUTE WHICH DIVESTS LOCAL COURTS OF JURISDICTION TO ENTERTAIN SIMILAR ACTIONS CREATED BY LAWS OF SISTER STATES VIOLATIVE OF THE FULL FAITH AND CREDIT CLAUSE, SECTION 1 OF ARTICLE IV OF THE CONSTITUTION OF THE UNITED STATES?

except that in that case the question arises by reason of an application of the principle of *Erie* v. *Tompkins*, 304 U. S. 64, so as to divest the Federal District Court of jurisdiction by reason of the local statute.

Considerations Presented in the First National Bank Case That Are Important To But Not Suggested in This Case.

In the Brief in support of said Petition (pp. 22-28) there is raised the following contention not presented here:

The narrow permissive area in which a State may bar its doors to actions created elsewhere under the full faith

and credit clause is confined to those peculiarly domestic affairs which the several States reserved the right to regulate; and any justifiable policy barring the door to local courts must be expressed by laws regulating such domestic affairs. *Pink* v. *A. A. A. Highway Express*, 314 U. S. 201, 210; *Alaska Packers Ass'n.* v. *Industrial Comm'n.*, 294 U. S. 532, 547.

Illinois (like Wisconsin in the instant case) has expressed her domestic policy in favor of recovery in actions for wrongful death by creating such actions locally and permitting access to her courts for their enforcement. Therefore the statute barring the door of her courts to like actions created elsewhere has no relationship to regulation of her own domestic affairs, and is void under the full faith and credit clause.

Reasons Assigned to Show That the Filing of This Motion Is Timely.

In the *First National Bank of Chicago* case, judgment was entered in the District Court on January 26, 1951. Appeal was perfected to the Court of Appeals for the Seventh Circuit on February 5, 1951. Petition for Writ of Certiorari and the Brief in support thereof are being filed in this Court concurrently with the filing of this Motion. Counsel have worked night and day since January 26, 1951 in perfecting the appeal, preparing the Petition and the Brief in support thereof.

Counsel could not have anticipated the decision of the District Court in that case prior to January 19, 1951, since the case was set for hearing on that date to hear oral argument on the question, among others, of the validity of the local statute under Section 1 of Article IV of the Federal

Constitution, and the trial Court announced its decision on that date.

WILLIAM C. WINES,
900—160 North La Salle Street,
Chicago, Illinois,
Attorney.